

prior to considering matters in mitigation or aggravation. For instance, without considering other factors, a period of two to four months outright suspension is considered appropriate for *Failure to Obey a master's written instructions*. An order within the range would not be considered excessive. Mitigating or aggravating factors may make an order greater or less than the given range appropriate. Orders for repeat offenders will ordinarily be greater than those specified.

TABLE 5.569—SUGGESTED RANGE OF AN APPROPRIATE ORDER

Type of offense	Range of order (in months)
Misconduct:	
Failure to obey master's/ship officer's order.	1–3.
Failure to comply with U.S. law or regulations.	1–3.
Possession of intoxicating liquor.	1–4.
Failure to obey master's written instruction.	2–4.
Improper performance of duties related to vessel safety.	2–5.
Failure to join vessel (required crew member).	2–6.
Violent acts against other persons (without injury).	2–6.
Failure to perform duties related to vessel safety.	3–6.
Theft .....	3–6.
Violent acts against other persons (injury).	4-Revocation.
Use, possession, or sale of dangerous drugs.	Revocation (Note: see § 5.59).
Negligence:	
Negligently performing duties related to vessel navigation.	2–6.
Negligently performing non-navigational duties related to vessel safety.	1–3.
Neglect of vessel navigation duties.	3–6.
Neglect of non-navigational safety related duties.	2–4.
Incompetence .....	The only proper order for a charge of incompetence found proved is revocation.
Violation of Regulation:	
Refusal to provide specimens for required chemical test..	12–24.
Dangerous drugs (46 U.S.C. 7704).	The only proper order for a charge under 46 U.S.C. 7704 found proved is revocation.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by CGD 86-067, 53 FR 47079, Nov. 21, 1989]

#### § 5.571 Delivery of decision.

(a) Whenever possible, the Administrative Law Judge's decision is delivered in writing to the respondent or to the respondent's authorized representative at the final hearing session. If it is not possible for the Administrative Law Judge to deliver a complete written decision at the final session of the hearing, an oral decision is rendered on the record, with a written order prepared and served on the respondent or the respondent's authorized representative. The decision, including the order, is effective upon service of the written order.

(b) If a complete written decision is not delivered at the final hearing session, the Administrative Law Judge prepares and has served on the respondent or the respondent's authorized representative a complete written decision within 30 days, when possible, after completion of the hearing. This delivery may be by personal service or certified mail, return receipt requested. The signed acknowledgment of personal service or the return receipt becomes a part of the hearing record.

(c) As used in this section, the phrase, *authorized representative* means any person who has been authorized by the respondent, as shown by the hearing record, to receive service and take an appeal on behalf of the respondent.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985; 50 FR 35228, Aug. 30, 1985]

#### § 5.573 Notification of right to appeal.

The respondent is advised by the Administrative Law Judge of the right to appeal in accordance with subpart J of this part.

#### § 5.577 Modification of Administrative Law Judge's decision and order.

(a) After an Administrative Law Judge renders the decision and order, it may be modified or changed pursuant to procedures set forth in paragraph (b) of this section, in subpart I of this part for reopening of hearings; in subpart J of this part for appeals; or in subpart K of this part for review of Administrative Law Judge's decision by the Commandant. In the absence of any such actions, the decision of the Administrative Law Judge is final.